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Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE AND DENYING CERTIFICATE OF APPEALABILITY

Additionally, for the reasons stated in the Report and Recommendation, the Court finds that Petitioner has not shown that jurists of reason would find it debatable whether the Court was correct in its procedural ruling. As a result, a Certificate of Appealability (“COA”) is denied. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (holding that when a court dismisses a petition on procedural grounds, a COA should issue only when a “prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right *and* that jurists of reason would find it debatable whether the

1 district court was correct in its procedural ruling[']") (emphasis added).

2 Accordingly, IT IS ORDERED THAT:

3 1. Judgment shall be entered dismissing the action with prejudice.

4 2. The Clerk shall serve copies of this Order and the Judgment herein on
5 the parties.

6 3. A Certificate of Appealability is denied.
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9 DATED: June 21, 2011.
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A handwritten signature in cursive script, appearing to read "Andrew J. Guilford", is written over a horizontal line.

12 HON. ANDREW J. GUILFORD
13 UNITED STATES DISTRICT JUDGE
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